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Recommended Citation
Mastrianni, Jeffrey Michael, "Hechiceras e Inquisidores: The Relative Lack of Severity of Witchcraft Prosecution Among Spanish Imperial Territories" (2011). *Honors Scholar Theses.* Paper 199.
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Hechiceras e Inquisidores:

The Relative Lack of Severity of Witchcraft Prosecution Among Spanish Imperial Territories

By Jeff Mastrianni

FOREWORD: Witchcraft, Culture, and Justice

The study of witchcraft in Europe during the fifteenth, sixteenth, and seventeenth centuries is characterized by a wide range of historical analyses. Some historians focus on those regions where witch-hunting was most potent and violent – most notably, in the Holy Roman Empire and the surrounding territories. Others choose to examine the periphery of witch-hunting, instead focusing on the possible psychological, social, political, or economic causes of its emergence. This paper will pay particular attention to regions where witchcraft was much less prevalent than in other European jurisdictions – those territories controlled by the Spanish Empire during its reign as a global superpower. The regions to be studied will include Spain itself, the Seventeen Provinces of the Netherlands, the Italian kingdoms of the Spanish Empire, and the Viceroyalty of New Mexico, all of which belonged to the empire for a sizable portion of their history. Each region's distinctive traits, with reference to their historical background, cultural status quos, and judicial traditions, contributed to their relative leniency in dealing with witches; each case is exceptional and each given region came to this conclusion for its own set of reasons. To ascertain these reasons, it will be of particular importance to compare the values that these societies hold dear to their policies and interpret their congruence (or lack thereof). This interplay between concerns and prosecutorial habits will form a large segment of this paper's foundation. Thus, the argument will be organized in the following fashion: an introduction to witchcraft and the varying degrees to which it pervaded European culture; a review of the historical background of the Spanish Empire; an analysis of Spain concerning popular culture and the Inquisition, a significant part of Spain's judicial tradition; scrutiny of the history of the Netherlands, Dutch culture and Dutch judicial tradition; a similar review regarding Mexico; an

analysis of the same factors in Spanish Italy; and a conclusion in which the above factors will be summed and re-evaluated.

What must first be established is the definition of witchcraft upon which this paper will be constructed. As a cultural phenomenon, witchcraft's boundaries are less than clear-cut. Certain practitioners or historians, such as renowned witchcraft and religion scholar Henry C. Lea, will emphasize *maleficia*, the use of magic or incantations with the intent of harming others, whether directly or indirectly. This could include spells invoking pain, disease, bad weather, crop failure, animal deaths, or any condition which would result in suffering for the targeted person or persons. In many cases, circumstances involving *maleficia* have been linked to jealousy or revenge on the part of the alleged witch, explaining their motivations. However, this remains only one of the major facets of witchcraft. Aside from the casting of spells, many witches were prosecuted for their suspected association with the devil, known otherwise as diabolism. This could, in turn, be related to other activities: in theory, witches frequently copulated with the devil, attended Sabbaths with other local witches, sacrificed infants and animals, travelled with animal familiars (companions by which they both amplified and drew their dark energy), and blasphemed.[1] For the purposes of this paper, the definition of witchcraft will include (but not be explicitly limited to) all these phenomena, which can be examined through the lenses of court records, historical debates, and treatises highlighting the activities of accused witches. It remains important to understand that witchcraft is dynamic, constantly changing both through time and between regions; thus, this paper will require an examination of witchcraft in several different areas (as mentioned above, these will include Spain, Italy, the Netherlands, and Mexico) in order to ascertain a wider comprehension of its influences and purposes. That being said, the timeline for studying these areas will not fall beyond the era of 1500-1800; these centuries saw a peak in

[1] Henry Charles Lea, *A History of the Inquisition in Spain.* (New York: MacMillan Company, 1907), 3:379

which prosecution, from which we can infer an increase in either witch activity or the fear of witchcraft.

While this increase in prosecution represents the general trend throughout Europe, certain regions serve as exemptions from the rule. England is commonly cited as an example of a region in which witchcraft was prosecuted with less zeal than in mainland Europe; however, the scope of this paper will include England or its prosecutorial habits. Rather, the main focus of comparison will be laid upon central northern Europe – mostly the regions in the Holy Roman Empire – where witch-hunting was at its most severe. Not only will this paper seek to draw on this comparison to convey the relative leniency of witchcraft prosecution in the Spanish Empire, but it will also attempt to illustrate that each major region in the empire had different reasons for developing this attitude towards witchcraft. That is to say, Spanish territories generally showed a level of restraint and caution in prosecuting witches that was unheard of in the Germanic regions where witch-hunting saw the most activity. Careful review will additionally expose that this is not, in fact, the result of an omnipotent Spanish presence, but rather that each territory came to the conclusion that witchcraft was not as large of a threat as other areas believed for their own set of unique reasons. The first task in approaching this argument is to analyze the Spanish Empire and its policies towards witchcraft. However, prior to examining witchcraft within the empire, it is important to understand how and why the empire came into existence so as to better grasp the political environment in which this cultural phenomenon emerged.

INTRODUCTION: Spain's Rise and Fall, 711-1643

The conquering of the Iberian Peninsula in the early eighth century by the Persian invaders claiming allegiance to the Umayyad Caliphate did much to break whatever unity the proto-Spanish inhabitants had exhibited. Over the nearly eight hundred years that followed,

Spanish and other armies fought to reclaim the peninsula in what became known as the *Reconquista* ("the reconquest"). The Province of Al-Andalus, ruled by the various Persian dynasties that succeeded one another during this period, consisted of the territories on the peninsula that had been conquered by these early Berber invaders. The suffusion of Muslim traditions into those of early Spanish society created a hybridized culture whose effects on early modern Spain were profound and far-reaching. By the mid-fifteenth century, the Spanish had driven out all Muslim presence on the peninsula aside from that in the Emirate of Granada, but this was accomplished in 1492 to complete the unification of Iberia beneath Spanish and Portuguese rule.

This is not to say, however, that rulers of the Spanish autonomous kingdoms during this period were completely focused on reclaiming the lost territory. Other events, such as the Crusades, fighting between the kingdoms, and unstable and short-lived systems of alliances, all presented themselves as distractions from the goals of the *Reconquista*. However, the peninsula was nevertheless eventually retaken, an event which would lead to a period of unprecedented Spanish superiority. Even after the completion of the *Reconquista*, though, the presence of religious and cultural minorities brought about significant unrest that would eventually form the rationale behind the establishment of the Spanish Inquisition. Certain events preceded and surrounded the establishment of the Inquisition, but none defined its purpose with such salience as the *Reconquista*. In the centuries following the unification of Spain, a number of events contributed to the spread of the rising state's power and influence.

After the War of Castilian Succession fought from 1475 to 1479 and the Treaty of Alcáçovas that ended it, the polity which would one day become modern Spain was united beneath the Catholic Monarchs, Isabella I of Castile and Ferdinand II of Aragon. At the peak of

the Age of Discovery, a period traditionally associated with Spanish and Portuguese global domination and expansion, Isabella and Ferdinand financed Cristóbal Colón (more widely known as Christopher Columbus) on his trip across the Atlantic Ocean, eventually resulting in the claiming of many territories in the Americas in the name of Spain. At the same time, the monarchs planned intermarriages between their children and rulers in Austria, England, the Holy Roman Empire, Portugal, and Wales in order to solidify their presence on the continent. In 1516, King Carlos I – who was crowned Charles V, the Holy Roman Emperor, in 1519 – ascended to the throne, uniting through marriage many of the Habsburg and Spanish lands, including Spanish overseas territories in both the Americas and the Caribbean as well as regions on the European continent such as Franche-Comté in eastern France and the Netherlands.

Following this union, the Spanish Empire is said to have witnessed its golden age, later referred to as the *siglo de oro* (literally, the "century of gold"). This distinction comes not only from the immense and far-reaching power that the empire was able to exert, but also due to the massive influx of wealth that Spain enjoyed as a result of its gold-rich holdings in the New World. During the Protestant Reformation, the Spanish Empire sought to maintain centralized "hard-line" Catholic authority, but these efforts proved difficult to uphold in the face of overwhelming Protestant opposition, eventually forcing Charles V to sign the Peace of Augsburg in 1555 and to abdicate later that year. The *siglo de oro* continued despite this as Spain defeated numerous enemies abroad, including France at the Battle of St. Quentin in 1558 and the Ottoman Empire at the Battle of Lepanto in 1571. These victories assured continued Spanish dominance on the continent, which was only called into question after economic and social struggles broke the empire down internally. By 1643, Spain's enemies closed in on imperial borders, and the Spanish defeat at the hands of the French at the Battle of Rocroi is frequently considered to be

the culmination of the slow, deteriorative process that had been gradually eroding Spanish power.

Section I: Witchcraft Outside of the Spanish Empire

At the same time that Spain was enjoying its reign as a global superpower, other regions of Europe were undergoing a powerful religious transformation: the Protestant Reformation. This served as the backdrop for some of the most zealous and fervent witch-hunting, a phenomenon that was especially prevalent in northern central Europe (in what would become modern Germany). This can be at least partly attributed to the publishing of the *Malleus Maleficarum,* a treatise on witchcraft written by Heinrich Kramer in 1486. The treatise outlined some of the purposes and methods of combating witchcraft and was one of the most prominent documents on the subject.[2] Some of the most stereotypical portrayals of witches that we see today – groups of crones huddled together in dark forest clearings, celebrating a black mass and invoking the devil – come from accounts or testimonies recorded in this region, encouraging us to examine the area as a baseline of witch prosecution to which we can compare Spanish treatment of the same issues. Data show that the accused "came mainly from the lower socio-economic groups… [and] belonged to families that were on their way down through the social structure" and that "the typical witch was the wife or widow of an agricultural labourer or small tenant farmer, and she was well known for a quarrelsome and aggressive nature."[3] While this illustrates the conventional image of a witch, it does nothing in terms of explaining the differences of beliefs held between residents of the Spanish Empire as opposed to those of northern central Europe. Geoffrey Scarre suggests that as many as 100,000 witches may have been tried, sentenced, and

[2] Lea, *Inquisition in Spain*, 3:543.
[3] Ibid., 26.

executed in early modern Europe, many of which took place in "the 1590s, the years around 1630 and the 1660s."[4] However, it remains in question why northern central Europe was responsible for such a large proportion of these events.

To account for this discrepancy, Scarre continues on to say that "both Italy and Spain, the heartlands of the Inquisition, saw surprisingly few witchcraft trials, with the peak of prosecutions being over as early as 1550. What trials there were tended to take place in the northern parts of these countries, close to borders with other witch-hunting regions."[5] Scarre believes this to be a result of the Inquisition's high standard for evidence.[6] On the other hand, regions outside of the empire were slower to warm up to such judicial restrictions, being swayed instead by shifting cultural values. The gradual pervasion of Enlightenment philosophy into the strata of society meant that people began to be less inclined to believe in the notion that they were "being surrounded by invisible spiritual presences"[7], laying to rest many of the fears of witches being able to influence events relating to disease, weather, or wealth. Some of the most important ideas drawn from this period – the scientific method, proof by logic, and nascent rationalist thought – all seemed to hint at the notion that an extreme paranoia of witchcraft could be called into question. Strikingly, the Inquisition was able to reach its goal of reducing the influence and spread of witchcraft, but instead of accomplishing this through a lengthy period of prosecution or a reign of terrorizing witch-hunting, they were simply more skeptical of the crime in itself. This comes as a surprise in itself, as the Catholic centers of Spain and Italy were largely responsible for instilling fear of any behaviors that would undermine the goals of the Church. In contrast, the areas that were already most susceptible to the spread of Protestantism – northern central Europe

[4] Geoffrey Scarre, *Witchcraft and Magic in Sixteenth- and Seventeenth-Century Europe* (Atlantic Highlands, NJ: Humanities Press International, 1988), 19-20.
[5] Ibid., 21.
[6] Ibid., 22.
[7] Ibid., 55.

included – were more likely to continue witch-hunting with additional fanaticism and for a longer period of time. In this sense, the Spanish Empire remains a fascinating example for several reasons. Foremost among these reasons is the fact that its key component territories during the peak of its power – Spain, Mexico, Italy, and the Netherlands – all seemed to exhibit relatively lax prosecutorial behaviors.

Section II: What Differentiated Spanish Imperial Territories?

From the ancient civilizations of South America to the well-established Italian society centered around the ruins of the Roman Empire, cultures that had experienced their own rises and falls in the centuries preceding their inclusion into Spanish territory existed throughout the empire. Consequently, every region of the empire exhibited its own sense of tradition and set of beliefs. The culture of a given society can be determined not by the consensus of any single portion of the society (such as an economic class, a political party, or a social stratum), but rather by the summation of beliefs across all such layers. This is not to say, though, that certain groups did not have more or less influence on the judicial outcomes to be analyzed. For example, one group of particular importance is the educated ecclesiastical authorities employed by the various Inquisitions – those who acted as judges, trial officials, and administrators of legislation were responsible for many events concerned with witchcraft prosecution (as well as other types of prosecution). Nonetheless, they obtained their points of view and the rationale upon which they based their rulings from elite philosophy and culture, whether it came in the form of the Dutch philosopher Desiderius Erasmus' humanist writings, Ignatius of Loyola's dense pro-Catholic literature, or anything in between these two extremes. Ultimately, the influence which culture, literature, and common beliefs had upon the process of witch-hunting was profound, both inside and outside of the boundaries of the empire.

Practices revolving around accusations of witchcraft, including trials, sentencing, punishment, humiliation, torture, and executions varied greatly according to the jurisdictional region. At the same time, the severity of the prosecution was inconsistent at best on a case-to-case basis; a trial which could have ended in a burning or another public execution in one region may have ended in an acquittal or a release in another region. Thus, the many different treatments of witchcraft were a consequence of several factors and. Though all of the individual regions of the empire fell under the jurisdiction of the Spanish crown, they each had their own individual cultural and social notions of witchcraft and are often studied separately from one another. This method excludes the deeply significant fact that, despite being geographically separated, these regions were all part of the overarching polity that was the Spanish Empire. This implies, naturally, that most of these territories fell under the sway of Spanish law. Whether this law was explicitly enforced or updated regularly depended upon several factors, including but not limited to the region's relative proximity to the Inquisition's main seat of power in Spain, cultural notions relating to torture, trials, and witchcraft, the current system of justice employed by local courts, and the types and quality of legislation relevant to law enforcement and trial procedure on a case-to-case basis. Though scholars have explored specific circumstances of witchcraft in many of the regions of the Spanish Empire, few have compared one another in the context of their greater commonality as parts of the Empire. When this analysis is conducted, a significant trend reveals itself: the territories under the Spanish crown behaved with more restraint and clemency towards accused witches than those outside of the empire.

Historians have traditionally attempted to define both the Inquisition and the Spanish Empire in terms of general, overarching properties that characterize them as whole entities. For

example, the Inquisition is seen as a violent and terrible body of judicial extremism,[8] while the Spanish Empire is typically characterized as a polity steeped in Catholicism and imperialistic conquest. These definitions are fundamentally flawed, as both are enormous and influential bodies with any number of subcomponents and smaller organizational compartments into which they can be divided. For the Inquisition, this involves its partitioning into jurisdictional regions; in the case of the empire, the regionalization of its territorial holdings is simple and, for the most part, determinable by their relative geographies. It should only follow naturally that with each jurisdictional and geographic region, there exists a blend of culture, religion, and philosophy unique to that area. The indigenous populations of these regions were wholly non-Spanish, lending an entirely foreign aspect to those Spanish conquerors who would seek to assimilate them into the greater body of the empire. In addition, Spanish subjects who migrated to these conquered regions were ill-adapted to conform to their new environments, making the distribution and integration of Spanish culture a slow and largely unsuccessful process (contrary to the example of the Umayyad Moors in eighth century Spain). Instead, these regions often formed their own social concepts based on a mixture of indigenous and Spanish culture, whether in the case of the Native Americans, Dutch, Italians, or others. Following from this, the treatment of accused witches could only vary with each region's own perspectives on the practice, examination, and punishment of those accused of witchcraft. No pan-Spanish view could be maintained across such a geographically and socially diverse panorama of cultures, and thus perceptions of witchcraft tended to be fluid, carrying different connotations and meanings between regions of the empire. Simply put, there were no two courts or tribunals in the Empire that would have just cause to issue the same verdict for the same reasons given the same circumstances of a trial. Rather, similar verdicts might occur, but not for the same reasons.

[8] Lea, *Inquisition in Spain,* 4:525.

Discrepancies between various regions – whether those being discussed in this paper or others – have often given rise to historiographical discussion on a wide variety of topics. Scholars who have studied the Inquisition and its treatment of witchcraft have traditionally attempted to isolate regions of the Spanish Empire according to hypotheses that solely address the region in question. For example, in his text *Zumárraga and the Mexican Inquisition*, Richard E. Greenleaf posits that the Mexican Inquisition is a prime circumstance of cultural integration in place of assimilation wherein indigenous society mixed with the arrival of *conquistador* culture and begat a subculture different from the sum of its parts. Mulatto and creole societies split away from their antecedents, indicative of the rise of subcultures in lieu of those from which they originated. In another circumstance, Marijke Gijswijt-Hofstra, a professor of history at the University of Amsterdam, writes in her article "Witchcraft in the Northern Netherlands" that the Dutch conceptualization of witchcraft contradicts many Spanish ideas on the matter. In prosecuting accused witches, Spanish courts were chiefly concerned with the diabolist aspect of witchcraft, whereas Dutch prosecutors tended to focus on *maleficia* and the harm that alleged witches could cause to animals and to others. A final major example resides among the Roman Inquisition, the branch of the Spanish Inquisition established to maintain order among the Italian kingdoms under the jurisdiction of the Spanish Empire. Professor David Gentilcore of the University of Leicester hypothesizes in his study *From Bishop to Witch: the System of the Sacred in Early Modern Terra d'Otranto* that "the common view that witchcraft was more pagan superstition and ignorance than diabolical apostasy… was coupled with the rare use of torture, central control and assigning little weight to the denunciations made by accused witches"[9] in the Italian kingdoms of the sixteenth and seventeenth centuries. Despite these distinctions, every

[9] David Gentilcore, *From Bishop to Witch: the System of the Sacred in Early Modern Terra d'Otranto* (New York: Manchester University Press, 1992), 241.

region of the empire was subject to its own cultural influences, law codes, and historical circumstances which, in turn, influenced the outcomes of their local witchcraft trials. That is not to say that these outcomes were necessarily predictable by synthesizing these predictive factors – every individual held their own views on the issue, as evidenced by the multitude of documents available that reveal debates between prominent ecclesiastical figures.

Section III: Debate on the Subject in Early Modern Europe

During the late 15th and early 16th centuries, debate ran hot on the subjects of witchcraft and heresy. The publication of the *Malleus Maleficarum* was only one part of a greater movement to bring about awareness of the dangers of witchcraft. The treatment of accused witches was consistently one of much contention – many individual inquisitors took it upon themselves to individualize the punishments that they issued, basing the severity of the sentence on the magnitude of the crime (among other things, such as available evidence or confessions). Debates of the subject were frequent, addressing the issue of a crime whose penalty carried only vague outlines. One such debate is recorded in the *Deliberations on the Reality and Heresy of Witchcraft*, a series of discourses between ten bishops and theologians in which they addressed several relatively unanswered questions concerning the prosecution of accused witches. The discourse was "provoked by… the prosecution and execution of dozens of witches in Navarre by a secular magistrate"[10] in 1526, spurring a discussion that sought to answer a series of important questions on the matter. These questions dealt with the witches' intent (or if they were tricked into confessing to or performing witchcraft), whether or not they could be tried in a secular court following the proceedings in inquisitional courts, whether their punishments should be the same if they were tricked or not, whether knowledge of *maleficia* constituted heresy (for both the

[10] Lu Ann Homza, trans., *The Spanish Inquisition 1478-1614: An Anthology of Sources* (Indianapolis: Hackett Publishing Company, 2006), 154.

accused and for inquisitors), whether confessions of the accused were sufficient evidence for "the greatest ordinary penalty"[11], and what each investigator believed was the best solution to preemptively combat and presumably end the threat of witchcraft.

The discourse between the aforementioned ten religious authorities reveals both the fact that such debates took place, even among preeminent theologians of the era, and that many varying viewpoints were commonplace in these debates. For example, when asked to consider "for the witches who really commit murders, whether they must be exiled or relaxed [relegated to a secular court instead of an ecclesiastical one], or handed over to a secular court after their reconciliation [in an ecclesiastical court], so they may be struck with worthy penalties for their actions,"[12] answers varied from "they must be completely destroyed"[13] to "they should be prosecuted as if they were heretics. But if they confess their crimes from their own free will, they should be treated with more compassion than heretics."[14] The former response, expressed by Dr. Coronel, a doctor of theology, is among the more drastic decisions; that being said, he continues, noting that punishment issued by inquisitorial courts should only match that which is required by Christian law, whereas other offenses should be handled by secular courts. Towards the other end of the spectrum, Dr. Guevara and Master Arrieta propose more lenient treatment of the accused. Dr. Guevara suggests that, should it be "conclusively proven that [the accused is a heretic],"[15] the assigned penalty be equivalent to a secular court's in a typical case of heresy. On the other hand, if the accused offers no confession of their own, then Dr. Guevara suggests the case be relaxed to a secular court instead. This distinction is of particular interest, since it reveals the weight of confessions, which remained a prominent facet of witchcraft trials for several

[11] Ibid., 155.
[12] Ibid., 156.
[13] Ibid., 156.
[14] Ibid., 156.
[15] Ibid., 157.

centuries. Master Arrieta supports the importance of confessions, stating that confessions should cause the accused to be "treated with greater compassion than heretics."[16] While the responses to this question covered a wide range of possible views, it should be noted that suggested punishments of a severity similar to that highlighted in Dr. Coronel's response were in the clear minority of the group, whereas leniency was favored by many of the theologians polled. The most important conclusion to draw from this matter is that the prevailing opinion on what the appropriate jurisdiction for witchcraft trials was remained one of relative leniency; in other words, the sample drawn from these ten people indicates that intellectuals tended to be in favor of deferring the judgment of accused witches to secular courts rather than inquisitorial or ecclesiastical ones.

The second question concerned the relative punishment of witches depending on whether or not they had been tricked into either committing acts of witchcraft or confessing to doing so (or both). The Bishop of Gaudix contends that "the same penalty should be given when [accused witches] are fooled as when they truly go to the Devil's assemblies,"[17] indicating his belief that it was insignificant whether or not the witch was aware of their alleged crimes. In contrast, the aforementioned Master Arrieta writes that "[accused witches] should not be punished by the same penalty when they actually commit the *maleficia* as when they are fooled," stating that "the exterior act aggravates the interior crime."[18] The exterior act he is referring to is the punishment of the witches, and the interior crime is the *maleficia*; the significance of this statement lies in the relative clemency that Arrieta's stance extends to accused witches, offering some compassion to those who have been tricked into being prosecuted.

[16] Ibid., 156.
[17] Ibid., 158.
[18] Ibid., 158.

This suggests several things. First, it alludes to the fact that some believed that one could be deceived into practicing or confessing to practicing witchcraft. This powerful notion would exonerate many alleged witches of their crime; it was not uncommon for convictions to operate on confessions alone, some of which would be ascertained in the face of torture or interrogation.[19] Secondly, it reveals that those same people who believed in the possibility of deception and trickery simultaneously believed that it was a crime to be blamed on the deceiver rather than on the deceived. Importantly, the accused witch is not completely blame-free; they are still charged with committing the witchcraft, but if their motivation is determined to not be of their own design, then the aforementioned deliberators believe they should receive a less harsh penalty. While the inquisitors do not completely agree with one another, the most important aspect of their discourse is the presence of multiple conflicting points of view, demonstrating that even matters of law and religion were not as clear-cut as legislators would have preferred.

While these deliberations are just one instance of the debates that occurred in the Spanish Empire (and, as a matter of fact, throughout Europe and the Americas) in the period of 1500-1800, they are of considerable significance. As stated above, they show that interpretations of the law were convoluted and often could not be viewed one way and not another; most trials of witchcraft accusations were resolved on a case-by-case basis, their outcomes determined by specific amounts and types of evidence, confessions, interrogation techniques, whether it was being initially tried in a secular or ecclesiastical court, the nuanced cultural traditions of the region in which the trial took place, and the personal beliefs of the individual judges or inquisitors. This last caveat is demonstrated impeccably by the disagreements between the ten theologians of the *Deliberations*, who scarcely share an opinion through the entire document. Of

[19] P. G. Maxwell-Stuart, ed. *Martín del Rio: Investigations into Magic*. (New York: Manchester University Press, 2000), 229.

course, the views expressed in the *Deliberations* are far from conclusive on overarching sentiments concerning witchcraft in the Spanish Empire; though the ten individuals are all scholars of religion, they by no means purport to represent every reasonable or possible belief. Still, they serve as an important indication that such debate did exist.

In a different instance, Martín Del Rio, a Jesuit scholar of Spanish lineage living in northwestern Europe during the 16th and 17th centuries, makes a case for the moderate treatment of accused witches. In his treatise *Investigations into Magic*, Del Rio provides an exceptional account of a myriad of topics related to witchcraft, such as frequent activities, types of magic and *maleficia*, and, most importantly, the role that he believes judges presiding over witchcraft trials should be responsible for and the duty they should fulfill. As a doctor of law, Del Rio frequently interjects legal commentary into his explanations, offering a justified perspective on his rationale. Whereas the above deliberators were mostly theologians by occupation, Del Rio is also able to assess the prosecution of witches from a secular legal standpoint. While this might suggest a clear, black-and-white argument, his declarations are anything but. As a Jesuit scholar, Del Rio also draws influences from his religious background, justifying his assertions with evidence from both Scripture and from local law codes. In defining judges' roles in witchcraft trials, he first endeavors to define how and why witchcraft is a crime to be prosecuted. Del Rio's views are clear: "[witchcraft] is… a crime of great enormity… because in it are combined the particular circumstances of outrageous crimes – apostasy, heresy, sacrilege, blasphemy, murder, and not infrequently parricide, unnatural sexual intercourse with a spiritual creature, and hatred of God."[20] Despite this, Del Rio is careful to point out that the gravity of the crime is no reason for a judge to abuse their power. Paraphrasing, P. G. Maxwell-Stuart writes that "Del Rio observes that in punishing this kind of criminal, a judge should not without a very good reason

[20] Ibid., 189

exceed the penalty laid down by the law. Nor should he hand down a milder punishment, but rather apply the letter of the law."[21] Thereafter, the punishment and interrogation of accused witches becomes a topic of great significance in the text.

Del Rio repeatedly emphasizes how much he is personally aggrieved by alleged practitioners of witchcraft; he believes their treatment should adhere strictly to the legal codes set in place. For example, he states that "no one is permitted under any circumstances to kill workers of harmful magic on his own authority."[22] In this circumstance, murder – even should the murderer attempt to justify it by citing their victim's practicing of magic – is never allowed, as would hold true for anyone who caught another type of criminal in the act. Simultaneously, Del Rio writes that "anyone, however, is permitted to arrest and bring before a judge those who have been caught clearly committing a crime."[23] By saying so, Del Rio is promoting the fair and equal treatment of being allowed a trial in front of a judge. As a scholar of both law and of religion, he sees both the atrocious, Catholic-offending aspect of diabolism and *maleficia* as well as the necessity to provide any person, regardless of their crime, with an opportunity to defend themselves. Del Rio even goes so far as to defend the rights of those who have been imprisoned unjustly, contending that "those workers of harmful magic who have been imprisoned unduly, even if they break out of prison, should not be punished for doing so, nor be considered to have confessed their guilty by doing so, nor be expected to return to prison even if they have promised to return."[24] By making these points, Del Rio alludes to the fact that these occurrences were both common and problematic. Undoubtedly, a person falsely convicted of witchcraft or imprisoned on suspicions of such a crime would desire freedom rather than incarceration, perhaps causing

[21] Ibid., 189.
[22] Ibid., 211.
[23] Ibid., 211.
[24] Ibid., 212.

instances of flight from jails. Whether or not this flight was indicative of innocence or guilt is not immediately determinable – rather, Del Rio continues to invest in the power of legal codes by insisting that guilt be uncovered by way of a trial before a judge rather than implied guilt through actions unrelated to the crime. This distinction is of particular weight since it dismisses the notion that actions factually irrelevant to the crime (such as confessions, failure to pass trials by ordeal, or other superstitious or anecdotal "evidence") are admissible as proof of one's guilt.

As for these selfsame confessions, Del Rio explicitly condemns torture as a means of obtaining evidence. He writes that "[the judge] should refrain from using torture if by doing so he can get the truth, since the application of torture often produces unreliable results. The type of torture used is left to the judge's discretion, but he should temper it with careful consideration and equity."[25] The conflict concerning the use of torture comes from a willingness to confess in the face of torture, even if the accused is innocent; to avoid torture, the accused might admit to a crime he did not commit, perhaps even revealing several of his friends or acquaintances to be "associates" and fellow witches in order to relieve the judge's focus on him. Del Rio discussed this matter with Philip Numann, the town clerk of Brussels. In one letter from Numann to Del Rio, Numann writes "any judge must make sure he is absolutely scrupulous, because a confession in this matter should not be held as sufficient proof since it may be proceeding from a mind which has been deceived and is in error."[26] In this same letter, Numann manages to return to the topic of delusion which so plagued the ten theologians of the aforementioned *Deliberations*. He wholeheartedly accepts the notion that witches could have been tricked into believing themselves guilty, or into committing witchcraft – in fact, he is staunchly convinced of it. He writes "it is obvious that learned men who write on the subject of witches agree to a man

[25] Ibid., 215.
[26] Ibid., 228.

that the silly women are often deluded and deceived… and certainly [believe] that they really have carried out and done things they have seen merely in their fantasy, caused by the Devil."[27] Such conviction, particularly in combination with the assertion that it is so widely believed, speaks to the broad support that this theory received. Del Rio's correspondence with Numann, in addition to the *Deliberations* of the ten theologians, provides a solid basis for analysis of common strands of thought in witches' prosecution.

As evidenced by the above theologians, views on witchcraft prosecution policy were always subject to variance. While Del Rio suggests that judges' decisions should "adhere to the letter of the law", he also believes that each case may vary slightly depending on specific circumstances. That is to say, the punishment should not exceed the severity allotted by the law, but the judge may exhibit some leniency if the conditions of the case allowed. This concept has already set the standard for a less harsh trend in legal interpretation as related to witchcraft trials. The examination of individual witches on a case-to-case basis allows for each one to be scrutinized as a product of the circumstances surrounding their case as opposed to a product of cultural misconceptions, revenge plots, jealousy, fear, and a number of other generalized factors that would normally apply to every case. These factors suggested guilt rather than innocence due to the strongly negative opinions of witchcraft that were common, particularly among the lower classes. Consequently, this case-by-case analysis by individual jurors might promote additional judicial leniency. Apart from individuals' beliefs, though, the other factors mentioned above are equally important to analyze to provide a fuller rationale for why witchcraft trials resulted in the ways that they did. In order to do so, we will examine the structure of Spain's system of justice as a lens through which these trials may be viewed.

[27] Ibid., 228.

Section IV: Spain and the Spanish Inquisition

Prior to a discussion of the Inquisition's handling of witchcraft trials, it is important to note that Spanish conceptions of witchcraft, witches, sorcery, magic, *maleficia*, diabolism, and related concepts were, for the most part, markedly different from those of other regions in Europe. Belief in witchcraft, superstition, and other related subjects was, not infrequently, looked down upon or even scorned. Henry Kamen, a British historian and scholar of the Inquisition, notes "there was always an important number of theologians and bishops in both Italy and Spain who considered that talk of flying through the air and copulation with the devil was a delusion to be pitied rather than punished."[28] This perception of those who accused others of and admitted to performing witchcraft contributed to an overall unclear notion on how to treat accused witches – the Inquisition did not seek to punish those who were perceived as innocent, and the common Spanish view of witchcraft was that it was a pitiable offense rather than a prosecutable one. As Kamen explains, two examples of the Inquisition's relative leniency occurred in 1665:

> The tribunal [of Barcelona] uncovered a group of middle-class diabolists… a priest in the group was suspended from holy orders for five years, and a surgeon was flogged and banished for the same length of time. In the same year Isabel Amada, a widow… was denounced by shepherds who had refused to give her alms; within three days, they said, 'two of their mules and thirty sheep died, and the accused claimed that she had done it with the help of the devil'. She was set free by the inquisitors. Such lenient verdicts would have been unthinkable in other European countries.[29]

As expressed by the author in this passage, the Inquisition's treatment of accused witches was comparatively lax when compared to other European jurisdictions, particularly those of northern and central Europe. Additionally, the passage implies that other European countries were hesitant to apply the same judicial restraint that the inquisitors in this instance were able to exhibit. This

[28] Henry Kamen, *Inquisition and Society in Spain in the Sixteenth and Seventeenth Centuries* (Bloomington: Indiana University Press, 1985), 209.
[29] Ibid., 214.

can largely be accounted for by the widespread opinions shared by much of the Spanish population, who believed witchcraft to be a possible symptom of insanity or mental instability. Because of the idea that witchcraft was hardly something to be feared but almost something to be ridiculed, rulings tended to favor the innocence of those accused of witchcraft (whether by themselves or by their peers).

In terms of judicial proceedings, traditions of the centuries preceding the establishment of the Spanish Empire were largely geared towards the accusatorial system of justice. A significant paradigmatic shift in trial law occurred towards the end of the fifteenth century. Prior to this era, "counsel were not allowed to the accused and it became a settled principle… that advocates who undertook the defence [sic] of heretics were suspended from their functions and were perpetually infamous."[30] Later, as the inquisitorial system grew to replace the formerly prevalent accusatorial system of justice, advocates were appointed more frequently to defend the accused. These trials were frequently overseen by inquisitors or ecclesiastical officials who, though they were armed with canon and Inquisition law, often injected – at least to a certain degree – their personal creed or morals into their rulings. This flaw is reflected in the writings of Alonso de Salazar Frías, an inquisitor employed by the tribunal in Logroño in Spain. In one letter to the Inquisitor General following a court case which he oversaw (along with other inquisitors), he writes "we failed to write down many important things concerning the defendants…. We omitted to record the disputes and rejoinders, writing only the final resolution of each point. We thus surpressed the inconsistencies and irrelevancies which could have further weakened the defendants' creditworthiness."[31] As the *Suprema* was far from where many trials took place, the allegedly omnipresent arm of the Inquisition was only vaguely effective in this duty. Whatever

[30] Lea, *Inquisition in Spain*, 3:43.
[31] *The Salazar Documents: Inquisitor Alonso de Salazar Frías and Others on the Basque Witch Prosecution*, ed. Gustav Henningsen (Leiden, the Netherlands: Brill Academic Publishers, 2004), 380.

centralization had been made possible by the centralization of the Inquisition's power into the *Suprema* was nearly rendered obsolete, despite its efforts towards branching out by means of the establishment of myriad tribunals throughout the Empire. As a result, legal gray areas arose on matters not explicitly covered by written law, especially regarding the treatment of accused witches. This was, additionally, a consequence of the Inquisition's precautionary nature regarding certain aspects of defining the law – "in the enlightened view taken by the Inquisition regarding witchcraft, instructions of 1537 indicate a disposition to regard reputed witches as insane."[32] This designation meant that a great change was taking place in cultural interpretations of witchcraft: accused witches were no longer to be treated as heretics, but as mentally unstable and thus free of true legal blame. The difficulties faced in determining the proper method of dealing with an accused witch become apparent in one example: the trial of Lucrecia de León, a twenty-one year old girl who was tried in Toledo in 1590 for claiming to have prophetic dreams and ultimately convicted for multiple crimes, including diabolism.

In explaining the background of Lucrecia's case, Richard Kagan outlines the pre-existing judicial environment into which her case emerged. After 1561, the year in which Inquisitional legal standards were last revised, documents detailing trials of faith explained that a trial would take place in the following order: a denunciation, a decision by the judges to pursue the case, a gathering and evaluation of evidence, a decision by the judges to continue, hearings with the accused, accusations against the accused, defense by the accused, decision by judges, and the sentence.[33] This sequence gives us important insight into the process that an accused witch would undergo in a trial scenario – one aspect of particular interest is the repeated instruction to the judges to decide whether or not the case was worth examining. By asking for such a decision

[32] Lea, *Inquisition of Spain,* 58.
[33] Richard L. Kagan, *Lucrecia's Dreams: Politics and Prophecy in Sixteenth-Century Spain* (Los Angeles: University of California Press, 1990), 136.

following the initial accusation, judges were able to filter out cases with insufficient grounds or evidence. Subsequently, by asking the same question following the presentation of evidence, they were able to prevent people from being tried who had no chance of being convicted (barring a voluntary confession). Another imperative aspect of the trial of faith was frequently reflected in a recitation of prayers by the accused – if they were able to recite certain prayers such as the Ave Maria and the Credo, they were deemed to have sufficient religious knowledge.[34] However, in spite of all the instructions that were laid out to give order to trials of faith, Lucrecia's trial in particular stretched on for a little over five years and became an example of Inquisitional mismanagement and infrastructural failures. Verdicts among the acting inquisitors were almost never unanimous, numerous officials were arrested or suspended for suspicions related to conspiracy, and even though Lucrecia's sentence ended up being the most merciful that the Inquisition could offer – "one hundred lashes, banishment from Madrid, and two years' seclusion in a religious house"[35] – the punishment proved difficult to administer. Inquisitors noted that "in the absence of an executioner, the administration of the one hundred lashes had to be postponed for almost a week,"[36] and that no religious houses would accept her in light of the crimes she had been convicted of. This bureaucratic mess serves us best as an example of both the Inquisition's fallibility and the possibility of judicial leniency in the face of frustration, prolonged prosecution, unwillingness to cooperate by judges and others, and corruption of officials related to trials, imprisonment, and even to the church. At the same time, this remains a single example to be considered among a plethora of others.

The Spanish Inquisition emerges in some older accounts – such as those of Lea – as a terror-inducing, hybridized legislative-judicial entity of immense reach and power, capable of

[34] Ibid., 137.
[35] Ibid., 155.
[36] Ibid., 155.

locating, trying, sentencing, and executing any subject who would dare decry Catholicism, the legitimacy of Spanish governance, or the fundamental tenets of these institutions. In the last century, however, historians such as Gustav Henningsen and Ruth Martin have chosen to analyze the Inquisition through less of a fearful lens, discussing instead the benefits and order it bestowed upon the Spanish Empire during its operations. Though the Inquisition has somewhat rightly gained a reputation as a violent and aggressive organization, it was, without question, capable of judiciary discretion. In addition, the widespread nature of the empire, the largest in the world during much of the early modern period, with territories in northern Europe, central and South America, the Italian peninsula, the Pacific, and small regions of Africa, contributed to variations in inquisitorial practices. The difficulties of governing a vast, multi-hemispheric empire included endemic lapses and delays in communication.

Though a study of the Inquisition will typically begin at its inception in 1478 as an organization almost solely focused on prosecuting *conversos* and *moriscos*, inquisitors were commissioned for duty as early as 1232, though their duties were much different at the time and they were not organized into the cohesive body that came to be known as the Inquisition. In the century following the establishment of the Inquisition as its own entity in 1478, twenty tribunals were established. Some, such as those in Logroño, Barcelona, Zaragoza, Madrid, and Toledo were in Spain, while others were established in Spanish territories, such as those in Palermo (in Sicily), Las Palmas (in the Canary Islands), Sassari (in Sardinia), Mexico (in the Viceroyalty of Mexico), and Lima (in the Viceroyalty of Peru). In the latter case, remoteness made centralization and judicial consistency a challenge. Consequently, attempts to establish a common code of law to be enforced by all branches and tribunals would prove difficult. For this reason, variations in Inquisitorial behavior began to emerge as individual tribunals and

inquisitors mixed vague legislation with their own cultural contexts, systems of belief, and outside influences. Separation, both geographical and psychological, from the center of Inquisition authority at the *Suprema* would give way to external pressures that swayed inquisitors. It is most interesting to note, however, that inquisitors almost unanimously tended to treat witches with more leniency than secular judges or judges outside of the empire – but for a multitude of different reasons.

Prior to its official inception as a judicial body aimed at proselytizing Catholic dissidents, Spain utilized the Inquisition and its investigators known as inquisitors "as part of a campaign against Catharism,"[37] a Christian sect originating in southern France. Later, when the monarchs of Spain saw fit to employ a new prosecutorial entity to maintain homogeneity of belief in their territories, they transformed the Inquisition by creating the *Consejo de la Suprema y General Inquisición* in 1483. Referred to as the *Suprema*, this was the Inquisition's main operating body and had the final word on all the judicial proceedings that it oversaw. It was composed of "three ecclesiastical members, and a fourth member as president of the council, with the title… of Inquisitor General."[38] Tribunals, typically staffed by two or three chief inquisitors each, were set up across the Empire, spanning a massive global network. Tribunals existed at Galicia, Logroño, Barcelona, Cartagena, Zaragoza, Valladolid, Madrid, Cuenca, Toledo, Valencia, Llerena, Murcia, Cordoba, Granada, and Sevilla (all of which were in Spain) as well as in Palermo (in Sicily), Las Palmas (on the Canary Islands), Mexico City (in the Viceroyalty of Mexico), Lima (in the Viceroyalty of Peru), Mallorca (on the Balearic Islands), and Sassari (in Sardinia).[39] This diffusion was not without consequence, however.

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[37] Ibid., 29.
[38] Ibid., 33.
[39] Gustav Henningsen, *The Witches' Advocate: Basque Witchcraft and the Spanish Inquisition, 1609-1614*. (Reno: University of Nevada Press, 1980), 361.

Different Inquisitional practices took root in some Spanish territories, and some form of centralization was required to maintain any degree of judicial consistency. The *Suprema* took on this role, at first accepting into its jurisdiction any appealed cases which were found to be questionable or had debatable verdicts. However, as the decades passed, the *Suprema* theoretically eventually became the final deciding authority for every case brought before the tribunal courts. Following their original rulings, regional tribunal courts were required to send their court documents to the *Suprema* for review. Though the distance between the tribunals and the *Suprema* made this impractical (though not impossible), the system was centralized and, at least in concept, would operate with self-consistency. This system would quickly deteriorate as the *Suprema* became more demanding as a result of tribunal courts frequently relying on their own decisions. Over time, these individual tribunal courts began to show deviation from central Inquisitional power, leading the *Suprema* to later request their cases be sent to their headquarters to have their verdicts confirmed by the Inquisitor General. In order to understand how these tribunals operated, we must examine the ways in which the Inquisition sought out and prosecuted its victims.

When the Inquisition sought to exert its sway in order to quell a rash of heretical or treasonous activity in a certain area, it frequently employed a number of tactics that contributed to its fearsome reputation. The first and most frequently-used of these was the visitation, in which "ecclesiastical officials visit[ed] the most afflicted areas in person"[40] in efforts to quell the undesirable activity, whether it be heretical, treasonous, or otherwise prosecutable in nature. Visitations were treated both as solutions to the myriad symptoms of unrest that the Inquisition sought to remedy and as preventative measures taken in order to keep such behaviors or beliefs

[40] E. William Monter. *Frontiers of Heresy: The Spanish Inquisition from the Basque Lands to Sicily.* (Cambridge: Cambridge University Press, 1990), 261.

from spreading. The list of such beliefs included those viewed as a threat to the religious and political orthodoxy of Spain, whether that translated to *conversos* (Jews who had converted to Catholicism to avoid prosecution and expulsion from Spain during the *Reconquista*), *moriscos* (Muslims who had converted to Catholicism for the same reasons), sorcerers, witches, political miscreants, or other groups seen as detrimental to the stability of the Spanish Empire.[41] The inquisitors of a given tribunal nearest the site of the visitation, along other ecclesiastical officials, were called upon to execute the duties of visitation periodically. These "regular tours of inspection" involved each judge performing "one visitation for four months per year… travelling to each area in rotation so that none was overlooked." Each visitation was typically preceded by the reading of the Edict of Faith, a document intended to convey to the Spanish people the crimes that were typically investigated during a visitation.[42]

The Edict of Faith was a fluid text, continually being updated and modified by inquisitors to condemn the most up-to-date perceptions of what constituted heretical behavior. It contained in-depth explanations of exactly what the Inquisition sought to prosecute and served as a cautionary tool. After 1520, the Edict listed "magic, sorcery, and witchcraft… [as] offences implying heresy."[43] This practice can be seen both an instrument of transparent justice and an attempt at making the Inquisition's visitations more justifiable – the Edict was frequently distributed prior to the inquisitor's performance of the visitation and was read in a public place in the town or city that was to be visited.[44] By organizing their activities in such a way, inquisitors educated the populace about how unacceptable or taboo behaviors, such as practicing Judaism or Protestantism, were grounds for them to be put on trial. In addition, the Edict made note of

[41] Kamen, *Inquisition and Society,* 41.
[42] Geoffrey Parker, "Some Recent work on the Inquisition in Spain and Italy", in *Journal of Modern History* 54 (1982), 523.
[43] Kamen, *Inquisition and Society*, 210.
[44] Henningsen, *The Witches' Advocate*, 96.

"forbidden books and opinions"[45], those which were believed to spread or encourage non-Christian or criminal behavior. As Henningsen explains, "under threat of excommunication, any person who had knowledge of [anyone who violated the points of the Edict] was charged to present himself and make a secret declaration to the Inquisition without mentioning the matter to anyone."[46] The Inquisition's aim was "to inculcate [in the laity] a sense of the correct behavior and the correct beliefs expected of a Christian."[47] At the very least, the Inquisition did not seek to obfuscate its intent: the Edict of Faith's widespread use demonstrates plainly the Inquisition's desire to maintain a judicial system based on inimitably well-communicated laws and policies – it was even translated into Italian and used by the Italian Inquisition.[48]

The prosecution of accused witches and other dissidents was not always so light, however. One of the Inquisition's most publicized and intimidating tactics was frequently employed chiefly as a means of exemplifying, condemning, and humiliating its targets. This tactic, known as the *auto de fe* ("act of faith"), or *auto* for short, enjoyed widespread use throughout Spain, particularly in the northern Basque region. *Autos* were "carefully devised to inspire awe for the mysterious authority of the Inquisition"[49] and were fundamentally ceremonies in which those accused of crimes to which the Inquisition was opposed were tried, sentenced, shamed, and punished in front of large audiences. At an *auto* in Toledo in 1486, the ritual involved the display and sentencing of the accused; this served to showcase the Inquisition's pragmatism and efficiency, though the event was still advertised and held in a public forum, most often, in the town or city public square).[50] As time progressed, the *auto* became viewed as a

[45] Parker, 523.
[46] Henningsen, *The Witches' Advocate*, 99.
[47] Parker, 520.
[48] Lea, *Inquisition of Spain,* 2:97.
[49] Lea, *Inquisition of Spain*, 3:209.
[50] Ibid., 209-210.

form of "public entertainment. The *autos de fe* were events which draw an audience from many miles around, just as throughout Europe people eagerly traveled for miles to witness an execution."[51] The audiences were not an unintentional side effect of the *auto*'s natural allure, either: the Inquisition distributed indulgences to audience members as a form of compensation for their attendance.[52] This behavior has questionable implications – it could be suggested that the Inquisition only sought to make public examples of those who disobeyed the laws set forth by Spanish legislature. Henningsen asserts that the *auto*s "had the effect of being both a terrifying example and an official confirmation of basic social values, whether it was concerned with the protection of the rights of property or the purity of the Christian faith."[53] However, the evidence tends to point towards *auto*s as primarily fulfilling the latter, at least in the earlier years of their use. After a century or so of the Inquisition's employment of this strategy, *auto*s became glorified and "imposing demonstrations of the authority of the Inquisition."[54] The increasing tendency of *autos* to be treated more as lavish exhibitions of power and less as judiciary proceedings can be seen as a symptom of rising arrogance among Inquisitors who believed their position to be one of great influence, increased popularity with attending audiences, or a necessitated ramping up of *auto*-related activity as a result of more frequent occurrences of prosecutable offenses, but the Inquisition's original intent was solely one of practicality. In contrast to the Inquisition-influenced lands of Spain proper are the Netherlands, a region completely devoid of a tribunal. Despite this, the Netherlands also exhibited an early decline in witchcraft prosecution and trials.

Section V: *Toverij* in the Netherlands

[51] Henningsen, *The Witches' Advocate*, 181.
[52] Lea, *Inquisition of Spain,* 3:209.
[53] Henningsen, *The Witches' Advocate*, 181.
[54] Lea, *Inquisition of Spain*, 3:211.

The history of the Netherlands is one marked by relative prosperity interspersed with a struggle to deal with an unestablished collective identity. A large portion of the Low Countries (which are comprised of modern-day Belgium, Luxembourg, and the Netherlands) were, in the late fourteenth century, governed by Burgundian rulers. This was brought about by a marriage between Philip II, the Duke of Burgundy, and Margaret III, the Countess of Flanders in 1384. In the following decades, Dutch prosperity grew, especially in terms of economic expansion. Philip the Good, who ruled from 1419-1467, also thrust the political tendrils of the Netherlands further, claiming several smaller regions for his own. Philip's granddaughter, Mary of Burgundy, married Maximilian I, who was the Holy Roman Emperor until 1519. Maximilian I was succeeded by Charles V, who, as Carlos I, was also the king of Spain. This passed control of the Netherlands to Spanish hands while they simultaneously remained under the sway of the Habsburg line. Charles V attempted to consolidate his family's control of these territories by imposing the Pragmatic Sanction of 1549, which removed the territories of the Low Countries from the Holy Roman Empire and instead declared them to be inheritable possessions of his successors. The resulting jurisdictional region came to be known as the Seventeen Provinces, a non-autonomous conglomeration of counties, duchies, and lordships. Though the small component regions that formed the Seventeen Provinces were now united under a single political body, they nevertheless had their own individual cultural and judicial traditions that continued.

Though all of these policies were regularly practiced within Spain, there were many variations in prosecution styles, especially in witchcraft cases, throughout the various imperial holdings. According to Gijswijt-Hofstra, the subjects of the Netherlands, which until they declared independence from Spain in 1581 belonged completely to the Spanish Habsburg Empire, had their own traditions regarding such matters. Witchcraft was blamed for "illness and

death… failure of dairy or beer production and of the harvest, setbacks in affairs of love, or bad luck when fishing, and even shipwrecks" and was lumped in with "counter-magic… white magic… fortune tellers and exorcists… [and] private persons applying magical arts themselves" into the Danish concept called *Toverij*.[55] In comparison to mainland Spain and its other territorial holdings, the Dutch were largely free from the imposition of Inquisitorial activity, as there existed no tribunal of the Inquisition in the Netherlands. However, Gijswijt-Hofstra notes in comparing Spanish territories to other European regions such as the Holy Roman Empire that "in Italy and Spain, where the Inquisition was in charge of judicial inquiries into witchcraft, the number of executions remained lower and ceased altogether *circa* 1620."[56] Since Judaizers and *conversos*, the chief targets of the original Inquisition, were not very prevalent, active, or threatening in the Netherlands, inquisitorial actions were kept to a minimum – there were no *autos* or any related prosecutorial activities held in the region.

Despite this absence, the Netherlands serve as an important piece of evidence. With different views on witchcraft and different judicial processes, the Dutch were still able to effectively curb the spread of witchcraft accusations. Like the Spanish, "the magistrates of the Northern Netherlands were seldom inclined to consider witchcraft in terms of the *Malleus Maleficarum*, though they did come to accept the traditional notion of the devil's pact during the sixteenth century."[57] The greatest difference between the Dutch and the Spanish was that of the purposes that their trial systems indicated: where the Spanish held lavish ceremonies (such as *autos de fe*) at which the accused were tried and sentenced, "[executions for maleficent witchcraft in the Netherlands] were… connected with the gradual introduction of Roman law and

[55] Marijke Gijswijt-Hofstra, "Witchcraft in the Northern Netherlands." In *Current Issues in Women's History,* ed. Arina Angerman et al. (London: Routledge, 1989), 76.
[56] Ibid., 87.
[57] Ibid., 80.

ex officio criminal proceedings."[58] These trials emphasized placing the burden of proof on the accuser rather than on the accused – in contrast to the proceedings of an *auto*, where the accused had to prove themselves innocent of the crime they had been accused of, the Dutch preferred the party associated with the original accusation to be responsible for marshaling enough evidence to convict the accused. As Henningsen expresses, this can be seen as a remnant from the old accusatorial system of justice, in which trials were conducted without any legal representation and were conducted solely as a result of the words and evidence brought forth by the accuser. While the "Spanish and Italian inquisitions are known not to have been impressed by demonological witchcraft ideas, and to have employed a high standard regarding the acceptability of proofs of witchcraft,"[59] the Dutch still celebrated great success in limiting the spread of witchcraft accusations, as "trials and burnings in the Netherlands were fewer than in any other country, and they ended earlier."[60]

This rarity of trials and burnings seems to stem chiefly from Dutch cultural conceptions of witchcraft. Comparatively speaking, the Dutch were skeptical of what effects witchcraft could have on them; Gijswijt-Hofstra writes in her article *Witchcraft in the Netherlands* that "the inclination to blame certain misfortunes on curses by 'evil people,' identified or not, existed to a lesser extent [than elsewhere]."[61] Though *toverij* covers a broad spectrum of witchcraft-related phenomena (including all types of magic, *maleficia*, and diabolist activities), it remained a crime that saw rare prosecution, particularly among higher social classes.[62] One significant limitation in Dutch witchcraft prosecution came with the cessation of the death penalty by the beginning of

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[58] Ibid., 80.
[59] Ibid., 87.
[60] Ibid., 88.
[61] Marijke Gijswijt-Hofstra, William Frijhoff, eds., Rachel M. J. van der Wilden-Fall, trans. *Witchcraft in the Netherlands*. (Universitaire Pers Rotterdam, Rotterdam, 1991), 9.
[62] Ibid., 9.

the seventeenth century, demarcating a noticeable shift towards leniency. Gijswijt-Hofstra argues that "the low intensity of witchcraft trials in the Netherlands… is due partly to (presumably) slight incidence in Friesland, Zeeland, Overijssel, and Drenthe, [and] partly to the comparative infrequency of extensive trials."[63] The lack of in-depth investigations, the prohibition of the death penalty, and "legal authorities' decreasing willingness to convict injurious witchcraft cases"[64] all led to an early decline in witchcraft prosecutions. While trials and witch-hunts in the Netherlands were rare by the end of the sixteenth century, "witchcraft trials mostly reached their peak in the seventeenth century or even later [in other countries]."[65] When compared to nearby regions, the Netherlands certainly seem to have solved the dilemma of prosecuting witches early on.

Despite this outcome, Gijswijt-Hofstra notes that factors influencing judges' decisions in witchcraft cases were relatively unremarkable – they included "their own insight and experience,… what they were hearing at a given moment about witchcraft practices in their own environment and elsewhere,… possible pressure from superiors to prosecute or to be lenient, and… legal advice."[66] This draws our attention instead to the overall lack of paranoia and fear that Dutch culture attributed to witchcraft and its practitioners – because there was no culturally instilled tradition of extreme anxiety in the face of witchcraft, its prosecution dwindled by the early 17th century. While the end of the death penalty was a significant step towards ending this prosecution, such a step would only be possible in a culture that was already convinced that witchcraft was simply not as large a threat as some other societies had built it up to be. Thus, the Netherlands provide us with a key example of how one region of the Spanish Empire was able to

[63] Ibid., 30.
[64] Ibid., 9.
[65] Ibid., 9.
[66] Ibid., 31.

mitigate the spread and severity of witchcraft trials without resorting changes in legislation or judicial processes. Instead, the Dutch concepts of witchcraft lent themselves to the relaxation of prosecutorial activity. Both similar and different to this is the situation that unfolded in Mexico, whose culture had far-reaching consequences relating to witchcraft trials; the difference, however, lies in the existence of the Mexican Inquisition and the legal presence that it bore following its establishment.

Section VI: The Mexican Inquisition

When Hernán Cortés first journeyed from Cuba to the Mexican mainland in 1519, he entered amidst an ongoing conflict between the Aztec people and their rivals, the people of Tlaxcala. He was quick to deceive the Aztecs in order to leverage his position and gain more of the gold which he had come for. The Aztec Empire collapsed soon afterward and the Viceroyalty of New Spain was established in its place, which soon grew to colossal proportions as a result of ongoing conquest and the subjugation of additional native populations. The Viceroyalties of Nueva Granada, Peru, and the Rio de la Plata were established in the following centuries, each carved out of large tracts of Spanish-held territory in central and South America. Exploration continued north through western North America, and eventually a majority of the territory in the Americas belonged to the Spanish crown. Mexico did not declare independence from Spain until 1810, and then did not officially secure independence until it was pulled from the jaws of civil war in 1821. The constant struggles between the minority of the population who claimed Spain as their home and the majority who were indigenous to central and South America created a tense atmosphere of distrust and social inequality that would contribute to later conflict and misunderstanding between the two groups.

Though Spanish concepts of witchcraft certainly influenced the colonizers of the Americas, the circumstances of living amongst the indigenous Native American population proved to be completely different from those that defined witch-hunting and Inquisitional behavior in Europe. Whereas the chief concerns of the Spanish Inquisition were religious dissidents characterized by false claims to Catholicism (as in the case of *conversos* and *moriscos*), the most frequently perceived threats to Mexican stability came in the form of Native Americans and their ignorance of Catholicism. The most common sentiment towards the Natives is best articulated by Charles Ralph Boxer, an historian who writes in his book *The Church Militant and Iberian Expansion 1440-1770* that "[Amerindians] were not considered to be in the category of *gente de razón* ('intelligent people') in the same way as were Europeans, creoles, and *mestizos*; and their conversion was considered to be too recent for them to attain the same knowledge and comprehension of the Faith."[67] As a result, "an edict of Philip II in 1575… [proclaimed that] the Amerindians were exempted from the jurisdiction of the Inquisition."[68] Since the Inquisition played a sizable role in the prosecution of perceived heathens, witches, and heretics, this edict severely limited the numbers of those who would be tried for such crimes. Additionally, true judicial proceedings (in the sense of fair trials with representation for the accused) against those considered to be sub-humans were rare if not unheard of.

The defining characteristics of the European judicial practices of Spain and the Netherlands are markedly different from the New World's policies regarding the prosecution of witchcraft and superstition. Judaizers and *conversos* were certainly not an issue to be handled by the Inquisition of New Spain; instead, a tribunal was established in Mexico in 1570 in order to handle other matters that were more relevant to Mexican affairs. The chief concern of

[67] C. R. Boxer, *The Church Militant and Iberian Expansion 1440-1770* (Johns Hopkins University Press, Baltimore, 1978), 85.
[68] Ibid., 85.

ecclesiastical authorities in the New World was that of indigenous conversion to Catholicism. As a sizable portion of church presence in the Americas was devoted to missionary work and the Catholicization of the natives, it comes as a surprise that "the 1560's and the 1570's saw the end of the golden age of missionary endeavor in New Spain… the basic work of conversion was achieved… the crown, the bishops, and the secular clergy were encroaching on the privileged position of the Mendicant Orders… [and] the apocalyptic and utopian zeal which had inspired the earlier generation was noticeably cooled."[69] The decline of the zealous Catholicization of Native Americans, therefore, accompanied a steady decline in Native witchcraft trials – especially due to the fact that this decline occurred prior to the establishment of the Mexican Inquisition's tribunal.

While the perceived heresy and godlessness of the natives could scarcely be abided by the Spanish, witches of Spanish origin were far from absent in Mexico in the sixteenth and seventeenth centuries. The Mexican Inquisition "dealt with [sorcery and superstition] in a dual manner, Indian and Spanish. Native superstition had a different purpose, namely the pacification of the gods and the direction of the forces of nature for man's benefit. The Spanish sorcerer and magician was essentially a nefarious person who capitalized on the ignorance and credulousness of his subjects."[70] The differing conditions and cultural significance of witchcraft in Mexico translated into a different treatment of those put to trial: "sentences were harsh, but as a rule torture was not prescribed to elicit the confession [of the accused],"[71] indicating a contrast to the nature of prosecution of Native Americans in the same region, which were treated with pity and clemency (though at the cost of their being regarded as human beings). This dichotomy between

[69] Ibid., 114.
[70] Richard E. Greenleaf, *Zumárraga and the Mexican Inquisition 1536-1543* (Washington: Academy of American Franciscan History, 1962), 111.
[71] Ibid., 112.

the Spanish colonizers and the allegedly sub-human natives characterizes Mexico as an example of a region whose circumstances begat a more lenient atmosphere of witchcraft prosecution. Compared to the epicenters of witch-hunting in the Holy Roman Empire, Mexican treatment of accused witches was especially forgiving, and this behavior was brought about by the cultural and judicial states of situations of the region.

Section VII: The Roman Inquisition and Italian Witchcraft

During the fifteenth and sixteenth centuries, the Italian peninsula was considered to be the center of the Renaissance and all of the cultural transformations that it had to offer. Humanism, exemplified in the writings of Erasmus, flowered amidst art and music that glorified the human form and human contributions to life and the world. By replacing God as the all-important central fixture in their lives, the philosophers and artisans of the Renaissance were able to give humanity a new lens through which they could view themselves. Importantly, following the resolution of the Western Schism between the Avignon and Roman papacies, the Italian peninsula was also the home to the center of Christianity at Rome. This made the surrounding regions particularly susceptible to the influence of religion and, particularly, Catholicism. As a result, a rise in the fear of Protestantism further north in the Holy Roman Empire led to the establishment of the Roman Inquisition in July of 1542.[72] It is important to note that while the Spanish Inquisition was established prior to Luther in order to combat false Christians, the Roman Inquisition was established after Luther in order to combat Protestants. Dissidence in Italy, however, did not only come from a split between Catholics and Protestants; during the first half of the sixteenth century, many of the Italian city-states (as well as the Papal States, which included Rome) were engulfed by the Italian Wars, plunging the region into an ongoing and transformative conflict. This fighting, coupled with Spain's looming influence abroad, resulted in

[72] Ruth Martin, *Witchcraft and the Inquisition in Venice 1550-1650* (New York: Basil Blackwell Inc., 1989), 9.

the eventual Treaty of Cateau-Cambrésis in 1559, which gave the Spanish crown control of the kingdoms of Milan, Naples, Sardinia, and Sicily. These acquisitions gave Spain an immense political advantage on the global scale and served to maintain its position as a superpower.

Italian treatment of witchcraft can, with little extrapolation, be compared to that of Spain. As David Gentilcore writes, "a survey of Italian and Spanish witchcraft literature suggests that a stereotypical view of the phenomenon was never widespread in the Mediterranean."[73] In this sense, Italy and Spain did not exhibit the same cultural phenomena that were present in England and the Holy Roman Empire, where depictions of witchcraft, diabolism, sabbats, or the devil were commonly distributed, viewed, and read. Rather than provoking madness or a violent outbreak of accusations, Italian witchcraft was addressed with relative calm: "the activity of preachers and confessors was… crucial in convincing people that the proper means of reacting to supposed acts of sorcery and witchcraft was through the Episcopal tribunals."[74] Trials for witchcraft were very infrequent; in Friuli, a region in northern Italy, 777 cases were conducted between 1596 and 1785, of which only a portion were related to charges of therapeutic magic (199) and maleficia (180).[75] Trials in the records of Friuli were categorized by offense: these offenses included general magic, divination/necromancy, therapeutic magic, *Benandanti* (members of a cult present in Friuli associated with witchcraft and heresy), love magic, spells relating to wolves or storms, spells relating to bullets, wealth spells, other spells, and *maleficia*. In similarity to the Spanish Inquisition, Italian courts seemed to favor public humiliation as a form of punishment; but rulings also frequently prescribed regimens of penance in which the convicted would be sentenced to recite lengthy prayers for an extended period of time. Despite

[73] Ibid., 239.
[74] Ibid., 240.
[75] Ibid., 135.

this, the culture into which Italian witchcraft emerged was, similarly to that of Spain, a relatively enlightened one which favored caution over mindless prosecution.

In the same way that Italian verdicts reflect the culture in which they were decided, these selfsame verdicts help us to interpret the influence that Italian judicial systems had upon them. An important concept arises in an analysis of Italian considerations of law: "traditional forms of justice held sway within the inquisitorial and Episcopal courts [of Mediterranean Europe], based on penance, and such concepts as the victimless crime and truth by self-accusation were foreign."[76] Many accounts of the witch trials of the Holy Roman Empire and surrounding states relate a common theme of self-accusation, noting that many subsequent accusations were obtained through the use of torture or other interrogation. It is commonly acknowledged – by both contemporaries and current historians – that these accusations may have been made under the duress of the trial or torture situation simply in order to avoid further punishment. Therefore, the lack of such accusations would immediately reduce the number of trials held in Italian courts. Gentilcore further hypothesizes that "although the Roman Inquisition was far more concerned with illicit magic – the crime which included witchcraft – than the Spanish, neither treated the matter with great severity."[77] In fact, even when trials were conducted and convictions were made, capital punishment was used very rarely. Only four of the first one thousand convictions in Aquileia-Concordia between 1551 and 1647 resulted in executions; there were only fourteen executions in Venice between 1553 and 1588; and Milan only held seven executions between 1560 and 1630.[78] Finally, it is particularly intriguing to note that "between 1537 and 1572, the Sicilian Holy Office celebrated nineteen autos-da-fé [sic] during which twenty-two prisoners

[76] Ibid., 240.
[77] Ibid., 240.
[78] Ibid., 142.

were sentenced to death."[79] This is fascinating due to the fact that Spanish culture was able to pervade Italian culture (even before Spain acquired its Italian territories), displaying the empire's widespread influence as a global superpower.

Notably similar to the Dutch example is the restraint in employing the death penalty – the above figures illustrate a parallel between Italy and the Netherlands. This judicial trend was compounded with a notably low rate of conviction for what accusations were brought to the attention of the Roman Inquisition: "18 percent [of surviving cases]… produced a verdict and sentence… 12 percent [warranted] arrest and detention… 15 percent were not taken up at all… 14 percent resulted from a voluntary confession... and so did not lead to any further action… [and] 40 percent did not lead to… detention or the formal charging of the accused."[80] Though a rash of accusations sprung up around the 1580's and 1590's, Ruth Martin and William Monter agree that "Mediterranean Inquisitions… replaced their 'preoccupation with heretics by an obsession with repressing magical practices and other forms of superstition.'"[81] The shift from the prosecution of Protestants to the prosecution of witches came after Catholics realized that the Reformation was a losing battle, causing the Inquisition to search elsewhere for heresy. As Protestantism gained ground towards the middle and end of the Reformation, Protestants became less prosecutable and more of a cohesive socio-cultural structure. Despite this trend, the severity of convictions was often light and tempered by such factors as repentance or compassion for the elderly or sick.[82] Cassandra de Fordij, a woman tried in 1584 for witchcraft, was told that should she confess, "she would be let off the punishment of… canon law, leaving only the imposition of spiritual penances at the discretion of the Holy Office, and these would be that much more

[79] Ibid., 143.
[80] Martin, *Inquisition in Venice*, 215.
[81] Ibid., 216.
[82] Ibid., 223.

moderate and mild as she showed herself worthy by [confessing] such great wickedness."[83] In the instance of Italy, it seems that judicial clemency was one of the main reasons for the infrequency and early decline of witchcraft prosecutions.

In a culture trapped among the powerful forces of the Catholic Church and the Spanish Empire, the Italian Inquisition managed to find a balance between hard-line religious prosecution and the cultural purges that the Spanish empire sought to accomplish with the thoroughness of the Inquisition. Ruth Martin believes that "due in very large part to [the simultaneous restraint and vigor of the Roman Inquisition], Venice was saved from the true horrors of what has become known as the great European witch-hunt."[84] As part of the larger Italian society, Venice serves in Martin's work as an example of how witchcraft prosecution was curbed in the face of lessened judicial severity. The enlightened and progressive views of judges and accusers caused witchcraft to be viewed as a less serious crime than in other regions, subsequently resulting in far fewer trials, convictions, and sentences. In stark contrast to the emphasis placed on a cultural solution to witchcraft in the Netherlands, Italy is a region characterized by its intense Catholicism, suggesting a culture with considerable intolerance for witchcraft, a crime considered to be an egregious affront to the religion. The aspects of heresy, apostasy, and blasphemy involved in such a practice ensure that the most likely solution for Italian witchcraft was one of a clear-cut judicial approach. Thus, though Italy is completely distinct from the Netherlands and from Mexico, its solution remains similar to the Spanish mainland, which exhibited a prominent effort to cut back on witchcraft prosecution. This, of course, makes sense, since both are largely Catholic and Mediterranean nations with well-established Inquisitions. On the other hand, Spanish culture was an important element leading to the diffusion of witch-

[83] Ibid., 223.
[84] Ibid., 253.

hunting. While they certainly exhibit differences in their methods, both resulted in a steady decline of witchcraft prosecutions, illustrating once again the possibility that such an outcome could – and in fact had to be – produced by unique aspects of forward thought acting upon equally unique regions.

Section VIII: Summary

In sum, the experiences of accused witches in Spain, Italy, Mexico, and the Netherlands, though similar to one another, occurred for different reasons. In Spain, inquisitors believed themselves to be enlightened pursuers of God's justice, but this failed to stop them from taking pity on accused witches, who they considered to be suffering from mental disease rather than propagators of diabolism or practitioners of *maleficia*. While Italy's inquisitors held many of the same beliefs as their Spanish peers, Italian judicial traditions were fundamentally different from Spanish ones, lending Italian proceedings a dissimilar atmosphere. The Mexican Inquisition, faced with two separate facets of witchcraft (Spanish and Native), was lax in its prosecution of both: prosecution of Native Americans was forbidden after 1575, just five years after the establishment of the tribunal in Mexico, and Spanish witchcraft in Mexico was infrequent at best. In the Netherlands, a territory lacking a tribunal (and therefore a centralized outlet for the Inquisition), an *ex officio* trial system, which appointed representatives in the defense of those accused of crimes, was one of the central differences from Spain. Additionally, a completely different concept of witchcraft, characterized by an emphasis on *maleficia* rather than diabolism, made the idea of witchcraft less menacing to a less intensely-Catholic nation than Spain. Tribunals existed in all of these regions except for the Netherlands, but the sheer distance from the *Suprema* to these tribunals made enforcement of a common law code difficult as two-way communication of any sort would be delayed for months at a time. While the role of the *Suprema*

was readily noticeable during Inquisitorial activity in Spain, its constant vigilance was not felt so heavily in the outlying regions of the Empire – while its rules were enforced, rapid communication between two parties over the Atlantic Ocean or even over the European continent was impossible. For example, "by the mid-seventeenth century all cases were required to be submitted to the *Suprema* before being carried out"[85] – though this did not necessarily translate into judicial leniency toward witchcraft, it certainly made the consistent prosecution of witchcraft more difficult without a centralized body responsible for legislative regulation.

CONCLUSION: How to Interpret This Study

Historians frequently analyze events as consequences of other events. However, the application of this principle are rarely so simple; any number of causes, far-reaching both geographically and into the past, can be attributed to a certain effect. In the opposite fashion, any one event may have a countless web of effects following it that reach hundreds or thousands of years into the future and, in turn, beget their own consequences. There is truly no way for an historian to declare convincingly or with any sort of conviction that one event is caused by or an effect of another. Therefore, the analysis of how or why a particular circumstance came about – in this case, the certain treatments of accused witches at the hands of various forms of Spanish judicial and prosecutorial authorities – remains difficult. There remains a plethora of possible suspects, including varying popular cultural perceptions of witchcraft, inconsistent standards for the upholding and enforcement of Inquisitorial and Spanish Imperial law across the Empire's territories, Inquisitorial influence in a given region, and the distance between trial locations and their nearest Inquisitorial tribunal.

[85] Kamen, *Inquisition and Society*, 139.

That is not to say that these are the sole causes of the conflicting severities of treatment that accused witches received through the Empire; rather, they are some of the most significant and noticeable. Every case in which somebody was tried for witchcraft was different from another for many reasons – the people who attended, the town in which they lived, the ecclesiastical figures who attended, and any of a multitude of other factors influenced the outcome of the trial and the treatment which the accused received. However, a case-by-case analysis of witchcraft trials in the Spanish Empire, a global process spanning hundreds of years and thousands of miles, would be impractical at best; therefore, it behooves scholars of this era to analyze trends and patterns of treatment to see if any common threads present themselves. In this case, the common threads surfaced as commonalities segmented by geographic regions, whether in the case of Spain, Mexico, the Netherlands, or otherwise.

What should be taken away from this paper is a sense that the Spanish Empire serves not as one example of a solution to witchcraft, but as a diverse selection of solutions. Spain, the Netherlands, Italy, and Mexico all "solved" the problem of witchcraft, whether this involved an early closure to the death penalty for witchcraft (as in the Netherlands), a redefining of witchcraft as a psychological phenomenon rather than a crime as against the church (as in Spain and Italy), or a non-issue due to already-present native magic conflicting with unwilling courts (as in Mexico). The differences between these solutions stemmed from the differences between the cultures and societies in which they were formed, which in turn were products of their individual histories. Thus, a near-infinite pool of factors could be considered to have contributed to the leniency of witchcraft prosecution in the territories of the Spanish Empire; it is simply this paper's goal to highlight the most salient, significant, and influential ones. As a final thought, one should never consider an historical event as part of a timeline or as an incident in a vacuum;

rather, every occurrence is surrounded by others, each one acting upon the others in a vast tapestry of interconnection.